

ESTTA Tracking number: **ESTTA150415**

Filing date: **07/11/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Ritz-Carlton Hotel Company, L.L.C.
Granted to Date of previous extension	07/11/2007
Address	10400 Fernwood Road Bethesda, MD 20817 UNITED STATES

Attorney information	Jason J. Mazur Arent Fox LLP 1050 Connecticut Ave., NW Washington, DC 20036 UNITED STATES mazur.jason@arentfox.com, tmdocket@arentfox.com, henrye@arentfox.com Phone:202-857-6000
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Applicant Information

Application No	77039863	Publication date	03/13/2007
Opposition Filing Date	07/11/2007	Opposition Period Ends	07/11/2007
Applicant	Kracke International P.O. Box 3006 Blue Jay, CA 923173006 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. All goods and services in the class are opposed, namely: Jewelry
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2446217	Application Date	03/07/2000
Registration Date	04/24/2001	Foreign Priority Date	NONE
Word Mark	PUTTIN' ON THE RITZ		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1990/04/14 First Use In Commerce: 1990/04/14 CHARITABLE FUND RAISING SERVICES

U.S. Registration No.	3079520	Application Date	04/18/2005
Registration Date	04/11/2006	Foreign Priority Date	NONE
Word Mark	PUTTIN' ON THE RITZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1990/04/14 First Use In Commerce: 1990/04/14 hotel services; restaurant, catering, bar and cocktail lounge services; resort lodging services; provision of general-purpose facilities for meetings, conferences and exhibitions; provision of banquet and social function facilities for special occasions; and reservation services for hotel accommodations for others		

U.S. Registration No.	1535834	Application Date	10/29/1984
Registration Date	04/18/1989	Foreign Priority Date	NONE
Word Mark	RITZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: HOTEL AND RESTAURANT SERVICES, INCLUDING GRILL ROOMS, SNACK BARS, BARS, CABARETS AND TEA ROOM SERVICES		

U.S. Registration No.	2869095	Application Date	05/21/2001
Registration Date	08/03/2004	Foreign Priority Date	NONE
Word Mark	RITZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: PROVIDING GAMING SERVICES ACCESSED VIA LOCAL AND WORLDWIDE COMPUTER NETWORKS, PERSONAL DIGITAL ASSISTANTS, AND ELECTRONIC COMPUTER DATABASES		

U.S. Registration No.	2934838	Application Date	10/31/2003
Registration Date	03/22/2005	Foreign Priority Date	NONE
Word Mark	RITZ		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1933/12/31 First Use In Commerce: 1933/12/31 hotel services; restaurant, catering, bar and lounge services; resort lodging services; provision of general-purpose facilities for meetings, conferences and exhibitions; provision of banquet and social function facilities for special occasions; and reservation services for hotel accommodations

U.S. Registration No.	1795438	Application Date	12/10/1985
Registration Date	09/28/1993	Foreign Priority Date	06/17/1985
Word Mark	THE RITZ KIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: HOTEL SERVICES, RESTAURANT SERVICES, BEAUTY SALONS AND HAIRDRESSING SALON SERVICES		

U.S. Registration No.	1094823	Application Date	09/23/1977
Registration Date	06/27/1978	Foreign Priority Date	NONE
Word Mark	RITZ-CARLTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1927/05/18 First Use In Commerce: 1927/05/18 HOTEL SERVICES		

U.S. Registration No.	2298901	Application Date	03/09/1998
Registration Date	12/07/1999	Foreign Priority Date	NONE
Word Mark	RITZ-CARLTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1999/04/00 First Use In Commerce: 1999/04/00 APARTMENT, CONDOMINIUM AND REAL ESTATE MANAGEMENT SERVICES; REAL ESTATE BROKERAGE SERVICES; AND REAL ESTATE TIME-SHARING SERVICES		

U.S. Registration No.	2615549	Application Date	09/12/2001
Registration Date	09/03/2002	Foreign Priority Date	NONE
Word Mark	RITZ-CARLTON		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1927/12/31 First Use In Commerce: 1927/12/31 golf club services; health club services; providing tennis court facilities; providing facilities for tennis and golf tournaments; golf courses; party planning; providing facilities for recreation activities; providing casino facilities; arranging for ticket reservations for shows and other entertainment events; rental of skin diving and scuba diving equipment; arranging and conducting educational conferences

U.S. Registration No.	1905234	Application Date	03/12/1992
Registration Date	07/18/1995	Foreign Priority Date	NONE
Word Mark	THE RITZ-CARLTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 cleansers; namely, skin soaps, hair shampoo and conditioner</p> <p>Class 006. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 metal key rings</p> <p>Class 014. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 [clocks]</p> <p>Class 016. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 paperweights, [letter openers, vinyl pad desk folders, desk folders with calculators], stationery, underarm portfolios, letter pads, folders holding notepaper pads, [pen sets, roller ball pens, fountain pens, pencils], paper shopping bags, playing cards</p> <p>Class 018. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 [shaving kits sold empty, briefcases, briefbags], passport cases, [travel/tie cases], all-purpose sports bags, golf umbrellas, luggage tags, men's and women's valet bags, tote bags, duffle bage, luggage canvas bags</p> <p>Class 021. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 crystal boxes for decoration, drinking glasses, [bowls, vases, glass jars for condiments, decanters, crystal coolers for champagne and other wines, champagne flutes, pedestals for vases, crystal golf balls, crystal tennis balls], coffee mugs, coasters, [plates]</p> <p>Class 024. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 [bed and] bath linens [for use in hotels]</p> <p>Class 025. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 clothing; namely, visors, golf caps, robes for use by and sale to hotel guests, golf shirts, tennis shirts, shorts, [skirts], T-shirts, [sweat pants], sweat shirts, [warm-up suits]</p> <p>Class 028. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 toys; namely, stuffed animals, golf balls, [tennis balls]</p> <p>Class 029. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 processed foods; namely, jam, jellies</p> <p>Class 030. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 staple foods; namely, candy, honey, sugar, ketchup, mustard</p> <p>Class 034. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 matches</p>		

	<p>Class 041. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 entertainment services in the nature of cabarets</p> <p>Class 042. First use: First Use: 1927/00/00 First Use In Commerce: 1927/00/00 hotel services, restaurant services, restaurant services offering a grill room, snack bar, and tea room, cocktail lounge and bar services</p>
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U.S. Registration No.	2386118	Application Date	03/09/1998
Registration Date	09/12/2000	Foreign Priority Date	NONE
Word Mark	THE RITZ-CARLTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1999/04/00 First Use In Commerce: 1999/04/00 APARTMENT, CONDOMINIUM AND REAL ESTATE MANAGEMENT SERVICES; REAL ESTATE BROKERAGE SERVICES; AND REAL ESTATE TIME-SHARING SERVICES</p>		

U.S. Registration No.	2388768	Application Date	06/11/1999
Registration Date	09/19/2000	Foreign Priority Date	NONE
Word Mark	THE RITZ-CARLTON CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1999/09/14 First Use In Commerce: 1999/09/14 APARTMENT, CONDOMINIUM AND REAL ESTATE MANAGEMENT SERVICES; REAL ESTATE BROKERAGE SERVICES; AND REAL ESTATE TIME-SHARING SERVICES</p>		

Attachments	<p>75937491#TMSN.gif (1 page)(bytes)</p> <p>78611205#TMSN.jpeg (1 page)(bytes)</p> <p>73506241#TMSN.gif (1 page)(bytes)</p> <p>74801223#TMSN.gif (1 page)(bytes)</p> <p>75447167#TMSN.gif (1 page)(bytes)</p> <p>74254630#TMSN.gif (1 page)(bytes)</p> <p>75447161#TMSN.gif (1 page)(bytes)</p> <p>75723099#TMSN.gif (1 page)(bytes)</p> <p>oppositi.pdf (6 pages)(203879 bytes)</p>
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Signature	/Jason J. Mazur/
Name	Jason J. Mazur
Date	07/11/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No. 77/039863 for the mark PUTTIN' ON THE RITZ, filed November 8, 2006 and published March 13, 2007.

THE RITZ-CARLTON HOTEL)	
COMPANY, L.L.C.,)	
)	
Opposer,)	
)	
v.)	Opp. No. _____
)	
KRACKE INTERNATIONAL,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

The Ritz-Carlton Hotel Company, L.L.C. (“Opposer”), a limited liability company duly organized and existing under the laws of the State of Delaware, having a place of business at 10400 Fernwood Road, Bethesda, Maryland 20817, believes that it will be damaged by the registration of the mark shown in Application Serial No. 77/039863, and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for opposition, Opposer alleges the following:

1. Opposer is the owner of all right, title, and interest in and to various marks containing RITZ in whole or in part, including PUTTIN' ON THE RITZ, RITZ, RITZ-CARLTON, THE RITZ-CARLTON & Design, THE RITZ KIDS, and THE RITZ-CARLTON CLUB, (collectively the “RITZ Marks”), which Opposer uses in connection with a wide variety of goods and services, including the retail sale of a number of goods, including jewelry; hotel services; restaurant, catering, bar and cocktail lounge services; resort lodging services; provision of general-purpose facilities for meetings, conferences and exhibitions; provision of banquet and

social function facilities for special occasions; reservation services for hotel accommodations for others; and charitable fund raising services.

2. Opposer's rights in the RITZ Marks have been recognized by the United States Patent and Trademark Office, which has issued to Opposer various registrations for marks containing RITZ, including the following registrations:

<u>Mark</u>	<u>Registration. No.</u>	<u>Date of Registration</u>
PUTTIN' ON THE RITZ	2446217	April 24, 2001
PUTTIN' ON THE RITZ	3079520	April 11, 2006
RITZ	1535834	April 18, 1989
RITZ	2869095	August 3, 2004
RITZ	2934838	March 22, 2005
THE RITZ KIDS	1795438	September 28, 1993
RITZ-CARLTON	1094823	June 27, 1978
RITZ-CARLTON	2298901	December 7, 1999
RITZ-CARLTON	2615549	September 3, 2002
THE RITZ-CARLTON & Design	1905234	July 18, 1995
THE RITZ-CARLTON & Design	2386118	September 12, 2000
THE RITZ-CARLTON CLUB	2388768	September 19, 2000

3. Opposer's registrations are valid and subsisting, and Registration Nos. 1094823, 1535834, 1795438, 1905234, 2298901, 2386118, 2388768, and 2446217 are incontestable.

These registrations provide conclusive evidence of Opposer's ownership of the RITZ Marks, of the validity of the marks, and of Opposer's exclusive right to use the marks in commerce.

4. Opposer adopted and used marks containing RITZ at least as early as 1927, and such marks have been in continuous use in interstate commerce since then, which is long prior to the filing date of Applicant's application and long prior to any use by Applicant.

5. Opposer's RITZ Marks have been extensively used, advertised, and promoted in interstate commerce in connection with various goods and services, including those listed in Paragraph 1 above, since long prior to the filing date of Applicant's application or any use by Applicant of the mark it seeks to register.

6. As a result of said extensive use, advertising, and promotion, Opposer's RITZ Marks have become well-known and famous as distinctive indicators of the origin of Opposer's goods and services, and the marks have become valuable symbols of Opposer's goodwill.

7. Notwithstanding Opposer's prior established rights in the RITZ Marks, Applicant filed an intent-to-use application with the United States Patent and Trademark Office to register the mark PUTTIN' ON THE RITZ (Ser. No. 77/039863) for "jewelry."

8. Upon information and belief, Applicant made no use of its alleged mark prior to the filing date of its application.

9. Upon information and belief, Applicant knew or had reason to know of Opposer's prior rights in the RITZ Marks when Applicant filed its application.

Likelihood of Confusion - §2(d)

10. The mark which Applicant seeks to register is identical to or so closely resembles Opposer's RITZ Marks that the use and registration thereof is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation symbolized by the RITZ Marks.

11. Applicant's goods are so closely related to Opposer's goods and services that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's goods are those of Opposer, or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage.

12. Likelihood of confusion is enhanced by the fame of Opposer's RITZ Marks and by the fact that consumers associate these marks with goods and services sold, approved, or endorsed by Opposer

13. Likelihood of confusion is enhanced by the fact that purchasers of Applicant's

goods are prospective purchasers of Opposer's goods and services, and vice-versa.

Deception/False Suggestion of Connection - §2(a)

14. Applicant's mark so closely resembles Opposer's RITZ Marks that it is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that the mark misdescribes the nature or origin of the goods, purchasers are likely to believe that the misdescription actually describes the nature or origin of the goods, and this is likely to materially alter purchasers' decisions to acquire Applicant's goods.

15. Applicant's alleged mark so closely resembles Opposer's RITZ Marks that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged mark points uniquely to Opposer, and purchasers will assume that goods offered under Applicant's alleged mark are connected with Opposer.

16. Applicant's mark is deceptive in that it falsely suggests a connection with or approval by the Opposer.

Dilution - §43(c)

17. Use or registration of Applicant's alleged marks constitutes trademark dilution by blurring in violation of the Trademark Dilution Revision Act of 2006, 15 U.S.C. §1125(c).

18. Opposer's RITZ Marks are widely recognized by the general consuming public of the United States as a designation of source of Opposer's goods and services.

19. Opposer's RITZ Marks have been extensively used and promoted throughout the United States for many years.

20. A substantial amount of goods and services have been sold under Opposer's RITZ Marks throughout the United States.

21. The extent of actual recognition of Opposer's RITZ Marks is substantial.

22. Opposer's RITZ Marks are registered on the Principal Register.

23. Because of the extensive use of Opposer's RITZ Marks, the substantial sales under the RITZ Marks, the actual recognition of the RITZ Marks by the consuming public, and the number of U.S. registrations for the RITZ Marks on the Principal Register, Opposer's RITZ Marks are famous.

24. Applicant has filed for, and is making or intends to make unauthorized use in commerce of, one or more of the RITZ Marks.

25. Applicant's unauthorized use began, or will begin, long after Opposer's RITZ Marks became famous.

26. Applicant's conduct is likely to cause an association arising from the similarity between Applicant's PUTTIN' ON THE RITZ mark and Opposer's RITZ Marks that impairs the distinctiveness of Opposer's RITZ Marks.

27. Applicant's PUTTIN' ON THE RITZ mark and Opposer's RITZ Marks are identical or highly similar.

28. Opposer's RITZ Marks are highly distinctive.

29. On information and belief, Applicant intended to create an association between Applicant's PUTTIN' ON THE RITZ mark and Opposer's RITZ Marks.

30. Applicant's use or registration of PUTTIN' ON THE RITZ will deprive Opposer of the ability to protect its reputation, persona, and goodwill.

31. Applicant's use or registration of PUTTIN' ON THE RITZ will tarnish the goodwill symbolized by Opposer's RITZ Marks.

32. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will

attribute those defects to Opposer, and this will tarnish Opposer's reputation and goodwill.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

Dated: 7/11/07

THE RITZ-CARLTON HOTEL COMPANY, L.L.C.

By: Jason J. Mazur

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